

the allowance of all claims now pending in the above-identified patent application (i.e., Claims 103-173; Claims 104-109, 120, 126-131, 142, 148, 149, 151, 165, 166 and 168 corresponding to claims previously withdrawn from consideration as not being drawn to the earlier-elected species-of-invention) are respectfully requested in view of the foregoing amendments and the following remarks.

At the outset, it should be recalled that the present invention provides bags or sacks, such as plastic bags, having an improved, easily openable construction, which allows for the option of having such bags or sacks stand stably and without other support. The plastic bag of the claimed invention includes a mouth covered by a closure flap. The closure flap may be peeled backwards in order to open the bag without damaging the walls of the bag in, or at, which the mouth is formed, with the closure flap being preferably attached to the bag via a peelable adhesive and, in a preferred embodiment, includes lines of weakness along which the closure flap may be conveniently and properly torn. Unlike that disclosed by the prior art, the mouth of the bag of the present invention is distinct from the open end of the bag for accessing the interior of the bag. A base portion may be incorporated into the plastic bag of the claimed invention to allow it to stably stand without other supporting means.

Further, the bags, or sacks, of the present invention,

as now claimed, are to include a first line of peelable adhesive formed on the front face of the bag proximate to the mouth, and a second line of peelable adhesive formed on the front face proximate an edge of the closure flap distal from the mouth. The first and second lines of peelable adhesive, unlike the applied prior art, are to extend continuously across the front face of the bag from one side edge thereof to another side edge. This construction allows for a proper seal sufficient for retaining powdery material or food, while preventing the ingress of dust or bacteria, which would be inconsistent with the purpose of the bag when enclosing food.

As will be explained in greater detail hereinafter, nowhere in the prior art is such a novel and efficient bag, such as a plastic bag, having such an easy-open construction, which is made possible, in part, by locating a mouth for the bag which is distinct from the otherwise open end of the bag, while including two separate lines of peelable adhesive material formed on the front face of the bag for a complete and proper seal, either disclosed or suggested.

By the present amendments, Applicants have amended each of the four pending independent claims, i.e., Claims 103, 125, 145 and 162 (and all remaining claims via dependency) to specify that the bag, or sack, of the present invention, as now claimed, includes continuous lines of adhesive across the entire width of the front face of the bag, which adheres the

closure flap to the front face. The closest prior art, in contrast, uses discrete "pads" of adhesive to attach the closure flap to the front face of the bag, which are incapable of properly sealing the bag for use required when storing foods and other materials requiring a complete and tight seal.

In the final Office Action, dated February 20, 2003, the Examiner had also rejected Claims 174-178, as not being supported by the Specification as originally filed (a new matter rejection), pursuant to 35 U.S.C. §112, first paragraph, and as being indefinite, pursuant to 35 U.S.C. §112, second paragraph. Applicants have cancelled Claims 174-178 with this Amendment, and it is therefore respectfully submitted that the Examiner's 35 U.S.C. §112 rejections of these claims is now moot.

Along with the instant Response, Applicant is filing a formal "Request for Continued Examination," thereby allowing for withdrawal of the finality of the last Office Action, as a matter of right, and for entry and consideration of the instant claim amendments.

A "marked-up" version of the amendments being entered to independent Claims 103, 125, 145 and 162 is attached to this Response.

Turning now, in detail, to an analysis of the Examiner's

prior art rejections of Applicants' claims, in the final Office Action the Examiner has rejected the subject matter of independent Claim 103, as well as dependent Claims 110-113, 116, 117 and 121-124, as being anticipated, pursuant to 35 U.S.C. §102(b), by CITO-Kunststoffe und Verpackungsfolien GmbH, German Gebrauchsmuster No. G 90 03 401.5 ("CITO.") Relying upon the bag illustrated in FIGS. 1 - 3 of CITO, it is the Examiner's contention that the drawing figures of this reference discloses all structural elements of the claims enumerated in the anticipation rejection.

In reply to the Examiner's anticipation rejection of Claim 103 and the dependent claims enumerated in the §102(b) rejection, it is respectfully contended that the closure flap of the bag disclosed in the CITO reference adheres differently from that as now claimed by the instant Applicants. The presently claimed invention has two continuous lines of adhesive extending across the entire width of the front face of the bag for adhering the closure flap to the front face. CITO neither teaches this type of closure and, in fact, should be viewed as teaching against what Applicants are now claiming.

CITO discloses the use of discrete "pads" of adhesive to attach the closure flap to the front face of the bag therein. These rounded pads are illustrated in FIG. 2 of CITO and designated by reference numeral 21. CITO further teaches that

the pads may be replaced by continuous lines of adhesive in the region between the sides of the bag (16, 17) and the lines of weakness (14, 15), respectively. CITO does not disclose or suggest the placement of continuous lines of adhesive between the lines of weakness (14, 15), i.e., in the region which forms the tear-back portion (18) of the closure flap; portion 18 being mainly secured by the tab (19) with the option of some adhesive pads (21).

Functionally, Applicants submit that this is a significant distinction when the bag is intended for powdery material, such as food ingredients, since without a continuous line of adhesive, a proper seal for retaining the powdery material cannot be guaranteed. Likewise, ingress of dust, bacteria and the like cannot be prevented to the extent which is necessary with food products.

This distinction between CITO and that which is now being claimed by Applicants exists, and logically follows from that taught and suggested by CITO, because the CITO citation is concerned with packaging articles, such as sanitary towels, so the problems of powder egress and contamination from dust ingress isn't properly considered and simply isn't important.

Further, with respect to the bag disclosed in CITO, there is sealing between the closure flap and the front face of the bag. Instead, CITO relies upon sealing the bag walls

(12, 13) "in such a way that the bag walls 12, 13 are tensioned, whereby a certain pressure is exerted on the packed articles." (PTO English Translation, Page 6, lines 13-16) Applicants contend that such a construction would not be appropriate for enclosing powdery contents, since it would inevitably promote leakage of the contents - in contrast to the relatively bulky articles with which CITO is concerned.

In view of the foregoing, Applicants respectfully contend that the CITO citation neither anticipated, nor renders obvious, the present invention, as now claimed, and, consequently, the Examiner's 35 U.S.C. §102(b) anticipation rejection of Claims 103, 110-113, 116, 117 and 121-124 has been overcome and should now be appropriately withdrawn.

Separately, the Examiner has rejected independent Claims 125, 145 and 162 (and several dependent claims) as being obvious, pursuant to 35 U.S.C. §103(a), over CITO, either singularly, as in the case of independent Claim 125, or in view of further prior art.

The substantive amendment to independent Claim 103, as discussed above, has also been entered into independent Claims 125, 145 and 162, and for the same reasons that Claim 103 is submitted to be neither anticipated by, nor obvious over, CITO, Applicants submit that independent Claims 125, 145 and 162 are, likewise, not obvious over CITO.

As to independent Claim 125, the Examiner did issue an obviousness rejection that, in the alternative, combined CITO with Roosa, U.S. Patent No. 5,199,792, for its inclusion of tear lines. In applying Roosa, the Examiner stated that it would have been obvious to have eliminated the adhesive tear lines (14, 15) of CITO's closure flap, as taught by Roosa, as not being necessary for the proper functioning of the bag.

Inasmuch as Claim 125 has been amended to include two continuous lines of peelable adhesive, the Roosa citation, when combined with CITO, is respectfully contended to not be relevant to the claims as now amended. Roosa, it would seem, is being applied for the possible elimination of an adhesive, not the importance of such.

The same argument would apply with respect to the Examiner's 35 U.S.C. §103(a) obviousness rejection of independent Claim 162, which applies CITO, taken in view of Roosa, and, it is contended, should be withdrawn for the same reason that the obviousness rejections of independent Claims 103 and 125 should now be withdrawn.

Finally, the Examiner has rejected independent Claims 145 and 162 as being obvious, pursuant to 35 U.S.C. §103(a), over CITO, taken in view of Moran, U.S. Patent No. 3,534,520. Moran has been secondarily applied in the rejection of independent Claims 145 and 162 (and several dependent claims) because of its teaching of its bag bottom construction, and not

for its manner of closing or containing contents, as CITO has been so applied. Thus, assuming arguendo, that Moran teaches a bag having a base construction similar to that recited in independent Claims 145 and 162, it is nevertheless respectfully submitted that, with the inclusion of recitation of two continuous peelable lines of adhesive extending along the front face of the bag, that Claims 145 and 162 are patentable over CITO and are not obvious, when taken in view of Moran, which pertaining to a possible base construction for such bag and not concerning any feature having to do with securing closing the bag.

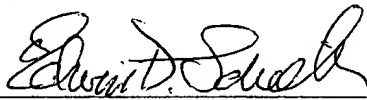
In light of the foregoing, Applicants' respectfully contend that the Examiner's 35 U.S.C. §103(a) obviousness rejections of independent Claims 125, 145 and 162, which apply CITO considered alone, or in further view of additional prior art, have been overcome by virtue of the amendments now being entered, and that such obviousness rejections should now be appropriately withdrawn.

In view of the foregoing, it is respectfully contended that all claims now pending in the above-identified patent application (i.e., Claims 103-173) recite a novel and efficient bag, such as a plastic bag, having such an easy-open construction, which is made possible, in part, by locating a mouth for the bag which is distinct from the otherwise open end of the bag, while including two separate lines of peela-

ble adhesive material formed on the front face of the bag for a complete and proper seal, which is patentably distinguishable over the prior art. Accordingly, withdrawal of the outstanding objections and rejections and the allowance of all claims now pending are respectfully requested and earnestly solicited.

Respectfully submitted,

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- Enc.: 1. Request for Continued Examination;
2. Petition for Two-Month Extension of time;
3. Check for \$580.00 (RCE Filing Fee (\$375.00)
+ Extension Fee (\$205.00)); and,
4. "Marked-Up" Version of Amendments to Claims.

The Commissioner is hereby authorized to charge the Deposit Account of Applicants' Attorney, Account No. 19-0450, for any additional fees which may be due in connection with the prosecution of the present application, but which have not otherwise been provided for.

VERSION OF AMENDMENTS WITH MARKINGS TO SHOW CHANGES MADE
(Dated July 21, 2003)

IN THE CLAIMS

Please cancel Claims 174-178, and amend the claims to now read as follows:

103. (Amended) A plastic bag having an open end and a closed end, comprising:

a first side wall and a second side wall together forming a bag portion having a front face and a rear face;

a mouth distinct from said open end for accessing an interior region of said plastic bag;

a closure flap, formed separately from said first side wall and said second side wall, overlying and closing said mouth; [and having a region peelably attached to said front face, so that at least a portion of said closure flap is peelable from said front face across said region peelably attached to said front face for revealing said mouth, said front face remaining functionally intact; and,]

a first line of peelable adhesive formed on said front face proximate said mouth, said first line of peelable adhesive extending continuously across said front face from a first side edge of said front face to a second side edge of said front face;

a second line of peelable adhesive formed on said front face proximate an edge of said closure flap distal from said

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mouth, said second line of peelable adhesive extending continuously across said front face from said first side edge of said front face to said second side edge of said front face, said closure flap being peelably attached to said front face by said first line of peelable adhesive and said second line of peelable adhesive, so that at least a portion of said closure flap is peelable from said front face across said first line of peelable adhesive and said second line of peelable adhesive for revealing said mouth, said front face remaining functionally intact; and,

a closeable region adjacent said open end of said plastic bag and distinct from said mouth and said portion of said closure flap peelable from said front face, said open end of said plastic bag being closable by a user after filling said plastic bag with contents.

125. (Amended) A plastic bag having an open end and a closed end, comprising:

a first side wall and a second side wall together forming a bag portion having a front face and a rear face;

a mouth distinct from said open end for accessing an interior region of said plastic bag;

a closure flap, formed separately from said first side wall and said second side wall, overlying and closing said mouth, [and having a region attached to said front face,] said closure flap including at least one line of weakness defining a portion of said closure flap [which does not

MARKED-UP AMENDMENTS-2

include any part of the region attached to said front face and] which [said portion] is able to be opened by tearing along at least one said line of weakness for exposing said mouth of said bag; [and,]

a first line of peelable adhesive formed on said front face proximate said mouth, said first line of peelable adhesive extending continuously across said front face from a first side edge of said front face to a second side edge of said front face;

a second line of peelable adhesive formed on said front face proximate an edge of said closure flap distal from said mouth, said second line of peelable adhesive extending continuously across said front face from said first side edge of said front face to said second side edge of said front face, said closure flap being peelably attached to said front face by said first line of peelable adhesive and said second line of peelable adhesive, so that at least a portion of said closure flap is peelable from said front face across said first line of peelable adhesive and said second line of peelable adhesive for revealing said mouth, said front face remaining functionally intact; and,

a closeable region adjacent said open end of said plastic bag and distinct from said mouth and said portion of said closure flap openable by tearing, said closeable region of said open end of said plastic bag being closeable by a user after contents have been inserted into said plastic bag

MARKED-UP AMENDMENTS-3

through said open end thereof.

145. (Amended) A plastic bag having an open end and a closed end, comprising:

a first side wall and a second side wall together forming a bag portion having a front face and a rear face;

a mouth distinct from said open end for accessing an interior region of said plastic bag;

a closure flap overlying and closing said mouth; [and having a region peelably attached to said front face, so that at least a portion of said closure flap is peelable from said front face across said region peelably attached to said front face for revealing said mouth, said front face remaining functionally intact;]

a first line of peelable adhesive formed on said front face proximate said mouth, said first line of peelable adhesive extending continuously across said front face from a first side edge of said front face to a second side edge of said front face;

a second line of peelable adhesive formed on said front face proximate an edge of said closure flap distal from said mouth, said second line of peelable adhesive extending continuously across said front face from said first side edge of said front face to said second side edge of said front face, said closure flap being peelably attached to said front face by said first line of peelable adhesive and said second line of peelable adhesive, so that at least a portion of said

MARKED-UP AMENDMENTS-4

closure flap is peelable from said front face across said first line of peelable adhesive and said second line of peelable adhesive for revealing said mouth, said front face remaining functionally intact;

a base portion on which said plastic bag can stably stand when containing contents therein, said base portion comprising a base panel connected along opposing sides thereof to respective said first side wall and said second side wall by first folds, said base panel further including a second fold, co-extensive with the width of said first side wall and said second side walls and substantially parallel to said first folds, said second fold dividing said base panel into a first panel leaf and a second panel leaf, so that said second fold and said first panel leaf and said second panel leaf lie between said first side wall and said second side wall with external faces of said first panel leaf and said second panel leaf being towards each other; and,

a seal line extending from each end of said second fold to each said first fold, along seal lines said first side wall and said second side wall are respectively joined to said base panel.

162. (Amended) A plastic bag having an open end and a closed end, comprising:

a first side wall and a second side wall together forming a bag portion having a front face and a rear face;

a mouth distinct from said open end for accessing an

MARKED-UP AMENDMENTS-5

interior region of said plastic bag;

a closure flap overlying and closing said mouth, [and having a region attached to said front face,] said closure flap including at least one line of weakness defining a portion of said closure flap [which does not include any part of the region attached to said front face and] which [said portion] is able to be opened by tearing along at least one said line of weakness for exposing said mouth of said bag;

a first line of peelable adhesive formed on said front face proximate said mouth, said first line of peelable adhesive extending continuously across said front face from a first side edge of said front face to a second side edge of said front face;

a second line of peelable adhesive formed on said front face proximate an edge of said closure flap distal from said mouth, said second line of peelable adhesive extending continuously across said front face from said first side edge of said front face to said second side edge of said front face, said closure flap being peelably attached to said front face by said first line of peelable adhesive and said second line of peelable adhesive, so that at least a portion of said closure flap is peelable from said front face across said first line of peelable adhesive and said second line of peelable adhesive for revealing said mouth, said front face remaining functionally intact;

a base portion on which said plastic bag can stably

MARKED-UP AMENDMENTS-6

stand when containing contents therein, said base portion comprising a base panel connected along opposing sides thereof to respective said first side wall and said second side wall by first folds, said base panel further including a second fold, co-extensive with the width of said first side wall and said second side wall and substantially parallel to said first folds, said second fold dividing said base panel into a first panel leaf and a second panel leaf, so that said second fold and said first panel leaf and said second panel leaf lie between said first side wall and said second side wall with external faces of said first panel leaf and said second panel leaf being towards each other; and,

a seal line extending from each end of said second fold to each said first fold, along seal lines said first side wall and said second side wall are respectively joined to said base panel.